

JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

BRIAN J. STRETCH (CABN 163973)
Chief, Criminal Division

THOMAS MOORE (ASB 4305-T78O)
KIRSTIN M. AULT (CSBN 206052)
Assistant United States Attorneys

450 Golden Gate Ave., Box 36055
San Francisco, California 94102
Telephone: (415) 436-6940
Facsimile: (415) 436-7234
E-mail: kirstin.ault@usdoj.gov
thomas.moore@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 03-40210 SBA
)	
Plaintiff,)	UNITED STATES' MOTION TO UNSEAL
)	PRESENTENCE INVESTIGATION
v.)	REPORTS FOR LIMITED PURPOSE AND
)	TO DISCLOSE GRAND JURY
MOHAMMED YOUSUF CHAUDHRY,)	TRANSCRIPTS PURSUANT TO F.R.Cr.P
and)	6(e)(3)(E)(i) AND ORDER
ALI H. KAHN,)	
)	
Defendants.)	

The United States hereby moves the Court for an order permitting it to obtain a copy of the sealed Presentence Investigation Reports (PSR) pertaining to defendants Sheila Wu, Radu Tomescu, Leng S. Kouch, and Adnan Torlak filed in case number CR 02-40082 SBA. The United States further requests permission to provide copies of those PSRs to counsel for defendants Chaudhry and Kahn for the limited purpose of using those documents at the upcoming trial in this case. The United States anticipates that it may call Wu, Tomescu, Kouch, and/or Torlak as witnesses to testify against Chaudhry and Kahn at trial. Because the PSRs contain information that may be used to impeach those witnesses, as well as statements made by

1 those witnesses that may be pertinent to the case against Chaudhry and Kahn, the United States
2 believes that copies of the PSRs should be made available as discovery to the defense under
3 *Brady v. Maryland*, Federal Rule of Criminal Procedure 16, and the Jencks Act, 18 U.S.C. §
4 3500, *et seq.* Because the PSRs contain material related to the private and personal matters of
5 the witnesses, the United States requests that counsel for defendants Chaudhry and Kahn be
6 ordered to maintain the PSRs in confidence and not to publicly disclose the PSRs or any of the
7 information contained in them, except as necessary to prepare for and conduct the trial in this
8 matter.

9 The United States further requests that it be permitted to obtain a copy of the Judgement
10 and Commitment Order (J&C) for Sheila Wu in case number CR 02-40082 SBA which has been
11 placed under seal and to disclose that order to the defense in this matter. Sheila Wu's sentence
12 was reduced in part based on her cooperation in this matter. Therefore, the J&C, which reflects
13 the reduction in Ms. Wu's sentence, may be used to impeach her testimony at trial and should be
14 disclosed to the defense. Because the J&C contains sensitive information regarding Ms. Wu's
15 sentence, the United States requests that counsel for defendants Chaudhry and Kahn be ordered
16 to maintain the J&C in confidence and not to publicly disclose the J&C or any of the information
17 contained in it, except as necessary to prepare for and conduct the trial in this matter.

18 Finally, the United States requests permission under Federal Rule of Criminal Procedure
19 6(e)(3)(E)(i) to disclose transcripts of the grand jury testimony of Anthony Armentano on May
20 13, 2004, and June 24, 2004, Connie Militano (formerly Connie Leung) on October 23, 2003,
21 and September 9, 2004, and Radu Tomescu on March 18, 2004. These three individuals may be
22 witnesses at the upcoming trial, and their grand jury testimony may constitute prior statements
23 under the Jencks Act, 18 U.S.C. § 3500, *et seq.* Because the grand jury transcripts contain
24 material related to grand jury proceedings, the United States requests that counsel for defendants
25 Chaudhry and Kahn be ordered to maintain the transcripts in confidence and not to publicly

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1 disclose the transcripts or any of the information contained in them, except as necessary to
2 prepare for and conduct the trial in this matter.

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4 DATED: May 20, 2008

Respectfully submitted,

5 JOSEPH P. RUSSONIELLO
6 United States Attorney

7 _____/s/
8 KIRSTIN M. AULT
9 Assistant United States Attorney
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ORDER


Based upon the motion of the government and for good cause shown, IT IS HEREBY ORDERED that the sealed Presentence Investigation Reports ("PSRs") of Sheila Wu, Radu Tomescu, Leng S. Kouch, and Adnan Torlak, in matter CR 02-40082 SBA, shall be unsealed for the limited purpose of providing copies to counsel for the United States. Counsel for the United States may in turn provide copies of those PSRs to counsel for defendants Mohammed Chaudhry and Ali Khan. Counsel for defendants Chaudhry and Khan shall use the PSRs only to prepare for and conduct the trial in this matter and shall not disclose the PSR to anyone other than defendants Chaudhry and Khan and others necessary to assist in the preparation of their defense.

IT IS FURTHER ORDERED that the Judgement and Commitment Order for Sheila Wu in matter CR 02-40082 SBA shall be unsealed for the limited purpose of providing a copy to counsel for the United States. Counsel for the United States may in turn provide a copy of that Order to counsel for defendants Mohammed Chaudhry and Ali Khan. Counsel for defendants Chaudhry and Khan shall use the Order only to prepare for and conduct the trial in this matter and shall not disclose the Order to anyone other than defendants Chaudhry and Khan and others necessary to assist in the preparation of Chaudhry and Khan's defense.

IT IS FURTHER ORDERED that counsel for the United States may provide copies of the grand jury testimony of Anthony Armentano on May 13, 2004 and June 24, 2004, Connie Militano (formerly Connie Leung) on October 23, 2003 and September 9, 2004, and Radu Tomescu on March 18, 2004, to counsel for defendants Mohammed Chaudhry and Ali Khan pursuant to Federal Rule of Criminal Procedure 6(e)(3)(E)(i). Counsel for defendants Chaudhry and Khan shall use the transcripts only to prepare for and conduct the trial in this matter and shall not disclose the transcripts to anyone other than defendants Chaudhry and Khan and others necessary to assist in the preparation of Chaudhry and Khan's defense.

IT IS SO ORDERED.

DATED: 5/20/08


SAUNDRA B. ARMSTRONG
United States District Judge